

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOHN ROBERT DEMOS,

Petitioner,

v.

DONALD R. HOLBROOK,

Respondent.

NO. C16-996-JCC-JPD

REPORT AND
RECOMMENDATION

Bar-order litigant John Demos has filed an application to proceed *in forma pauperis* with a proposed 28 U.S.C. § 2241 habeas petition. Dkt. 1. Although Mr. Demos purports to proceed under § 2241, he challenges his state court conviction and therefore the proper basis for his habeas relief is 28 U.S.C. § 2254. An Order of this Court provides for the return without filing of any petition by Mr. Demos that seeks an extraordinary writ pursuant to 28 U.S.C. §§ 1651, 2253 or 2254, unless accompanied by the filing fee. *See Demos v. Stanley*, MC97-0031-JLW (W.D. Wash. Mar. 13, 1997).

As Mr. Demos has submitted no filing fee, the Court recommends that, pursuant to the Court's Order of March 13, 1997, the Clerk be DIRECTED to administratively close this matter and to strike any pending motions as moot. Moreover, Mr. Demos may not proceed with a

This Report and Recommendation is not an appealable order. Thus, a notice of appeal seeking review in the Court of Appeals for the Ninth Circuit should not be filed until the assigned District Judge acts on this Report and Recommendation.

James P. Donohue
 JAMES P. DONOHUE
 Chief United States Magistrate Judge